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Attorneys for Defendant

UNITED STATES DISTRICT COURT

IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA

PAULA LABRIE, ALFREDO MACIAS,  
PETER MILLMAN, TOM CHORTABTIM,  
RAF SISON

Plaintiffs,

v.

UPS SUPPLY CHAIN SOLUTIONS, INC.

Defendant.

Case No. 3:08-CV-03182-PJH

**STIPULATION AND ORDER [Proposed]  
REGARDING PLAINTIFFS' NOTICE  
AND OPT-IN FORM**

The parties to this lawsuit, by and through their respective counsel, do hereby stipulate that the revised Notice and Opt-In Form, attached as Exhibit A hereto, have been revised to conform with the Court's Order of March 18, 2009.

DATED: March 27, 2009

LEONARD CARDER, LLP

By: /s/ Lynn Rossman Faris  
LYNN ROSSMAN FARIS  
Attorneys for PLAINTIFFS

DATED: March 27, 2009

PAUL, HASTINGS, JANOFSKY & WALKER

By: /s/ Robert P. Kristoff  
ROBERT P. KRISTOFF  
Attorneys for DEFENDANTS

Pursuant to this stipulation and the Court's order of March 18, 2009, the Court approves the revised Notice and Opt-In Form, attached as Exhibit A hereto, and Plaintiffs are authorized to mail the Notice and Opt-In Form attached hereto as Exhibit A to all prospective collective action members.

DATED: April 1, 2009



# EXHIBIT A

UNITED STATES DISTRICT COURT

IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA

PAULA LABRIE, ALFREDO MACIAS,  
PETER MILLMAN, TOM CHORTABTIM,  
RAF SISON, individually and on behalf of  
all others similarly-situated,

Plaintiffs,

v.

UPS SUPPLY CHAIN SOLUTIONS, INC.

Defendant.

Case No. 3:08-CV-03182-PJH

**NOTICE OF LAWSUIT**  
**AGAINST UPS SUPPLY CHAIN SOLUTIONS**

This notice and its contents have been authorized by the United States District Court for the Northern District of California. The Court has taken no position regarding the merits of the plaintiffs' claims or of UPS Supply Chain Solutions Inc.'s defenses.

*A court authorized this notice. This is not a solicitation from a lawyer.*

TO: Current and former drivers who worked as "independent contractors" for UPS Supply Chain Solutions, Inc., or any of its predecessor companies (such as UPS Logistics, SonicAir, Air Couriers) at any time within the last three years.

DATE: April 2, 2009

RE: Fair Labor Standards Act ("FLSA") lawsuit against UPS Supply Chain Solutions, Inc. seeking minimum wages and overtime compensation.

**I. Introduction**

The purpose of this Notice is to inform you of a collective action lawsuit that has been filed against UPS Supply Chain Solutions, Inc. The Court has determined that you may be similarly situated to the Named Plaintiffs who filed the case. Therefore, the Court has ordered that this notice be sent to you to explain what the lawsuit is about and how you can participate.

**II. Description of Lawsuit**

Plaintiffs Paula LaBrie, Alfredo Macias, Peter Millman, Tom Chortabtim and Raf Sison filed this action under the Fair Labor Standards Act against UPS Supply Chain Solutions, Inc. on behalf of themselves and all current and former drivers who worked for UPS Supply Chain

Solutions, Inc., or its predecessor entities, as "independent contractors" at any time within the last three years. Anyone who fits this description is eligible to participate in this lawsuit.

Plaintiffs contend that they are owed minimum wages and overtime pay under the Fair Labor Standards Act. Specifically, Plaintiffs allege that UPS Supply Chain Solutions, Inc. and its predecessors had and have a policy of misclassifying its pickup and delivery drivers as "independent contractors" when they are actually employees and denying them minimum wages and overtime pay for all hours worked. Plaintiffs allege that they and all drivers similarly situated are entitled to recover unpaid minimum wages, overtime pay, liquidated damages (equal to the unpaid minimum wages and overtime pay), interest, attorneys' fees and costs associated with bringing this lawsuit.

UPS Supply Chain Solutions, Inc. denies that it has violated the Fair Labor Standards Act and contends that it properly classified drivers as independent contractors rather than employees.

### **III. Your Right to Join This Lawsuit**

If you are a current or former driver who worked for UPS Supply Chain Solutions, Inc., or its predecessor companies, as an "independent contractor" at any time within the last three years, you may choose to join this suit (that is, you may "opt in"). To opt in, you must mail a "Consent to Join" form to Plaintiffs' counsel. This form is enclosed in this envelope with this notice. Forms should be emailed, faxed or mailed to Plaintiffs counsel at:

Leonard Carder, LLP  
Attn: Supply Chain Solutions Lawsuit  
1330 Broadway, Suite 1450  
Oakland, CA 94612  
Fax: (510) 272-0174  
Email: [dnorman@leonardcarder.com](mailto:dnorman@leonardcarder.com)

**Forms must be postmarked on or before June 2, 2009.**

If you do not return a Consent to Join form to Plaintiffs' counsel faxed or postmarked on or before this deadline, you cannot participate in any settlement or judgment for damages under the FLSA as part of this lawsuit.

### **IV. The Effect of Joining This Lawsuit**

If you join this lawsuit you, you will be bound by the judgment (meaning, the final result of the lawsuit), whether favorable or unfavorable (meaning, whether the Plaintiffs win their argument that drivers should be paid money by UPS Supply Chain Solutions, Inc. or not). If you join this lawsuit, you will also be bound by, and will share in, any settlement that may be reached on behalf of the class.

If you join this lawsuit, you will not incur any costs at all during or after the litigation. Leonard Carder, LLP will pay all costs from any monies it recovers if the lawsuit is successful. If there is no recovery, you will not be required to pay Plaintiffs' attorneys for any of their work. However, if UPS SCS prevails in this action, plaintiffs could potentially share in liability for payment of Defendant's costs.

You may or may not be required to respond to written questions, sit for a deposition, and/or testify in court. If you are required to do any of these things, Plaintiffs' counsel will assist you.

If there is a recovery, Plaintiffs' attorneys will receive whatever attorney's fees the Court orders. Those fees may be subtracted from the recovery obtained from UPS Supply Chain Solutions, Inc., or they may be paid separately by UPS Supply Chain Solutions, Inc., or they may be a combination of the two.

If you join this lawsuit, you designate the Named Plaintiffs as your agents to make decision on your behalf concerning the lawsuit. These decisions and agreements made and entered in to by the Named Plaintiffs will then be binding on you.

**V. The Effect of Not Joining This Lawsuit**

If you choose not to join this lawsuit, you will not be affected by any judgment, including any settlement in this lawsuit on this FLSA claim. If you choose not to join in this lawsuit, you are free to file your own lawsuit and to select the attorney of your choice. Be advised that if you do not join this lawsuit, the statute of limitations will continue running on any claim you might have under the FLSA.

**VI. No Retaliation Permitted**

Federal law prohibits UPS Supply Chain Solutions, Inc. from retaliating against you in any way (for example, terminating you, giving you less work, giving you only low-paying assignments, cutting your pay, etc.) because you have exercised your rights under the FLSA, for example, by joining the lawsuit or by providing evidence in support of the Plaintiffs.

**VII. Your Legal Representation If You Join**

If you choose to join this suit, you will be represented by the Named Plaintiffs through their attorneys, as counsel for the class. Counsel for the class are:

LYNN ROSSMAN FARIS (SBN 096029)  
JENNIFER KEATING (SBN 250857)  
LEONARD CARDER, LLP  
1330 Broadway, Suite 1450  
Oakland, CA 94612  
Telephone: (510) 272-0169  
Fax: (510) 272-0174

ELEANOR I. MORTON (SBN 220407)  
LEONARD CARDER, LLP  
1188 Franklin Street, Suite 201  
San Francisco, CA 94109  
Telephone: (415) 771-6400  
Fax: (415) 771-7010

**VIII. Further Information**

If you want further information about this Notice or the Lawsuit, or have questions about the procedure or deadline for filing a "Consent to Join," please write Plaintiffs' counsel at any of the addresses above or contact Doug Norman of Leonard Carder, LLP at [dnorman@leonardcarder.com](mailto:dnorman@leonardcarder.com), (510) 272-0169.

**CONSENT TO BECOME A PARTY PLAINTIFF**

I, \_\_\_\_\_, am a current or former driver for UPS SUPPLY CHAIN SOLUTIONS, INC. within the last three years, and I hereby consent to become a party plaintiff in the lawsuit, LABRIE, et al. v. UPS SUPPLY CHAIN SOLUTIONS, INC., U.S. District Court Northern Calif. No. 3:08-cv-3182, for claims asserted in that lawsuit arising under the Fair Labor Standards Act, 29 U.S.C. §201 *et seq.*, seeking to recover compensation, reimbursement and related sums, including interest and penalties, owed to me by UPS SUPPLY CHAIN SOLUTIONS, INC. and related entities for services rendered thereto. I choose to be represented by the named plaintiffs and their counsel, Leonard Carder, LLP, and agree to be bound by any adjudication or settlement of this action, whether favorable or unfavorable, and to be bound by decisions and agreements entered into by the named plaintiffs or their counsel.

Executed at \_\_\_\_\_, on \_\_\_\_\_.  
City, State Date

\_\_\_\_\_  
Signature

Name (Please Print): \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Dates of Service to UPS SCS: \_\_\_\_\_

Work Location: \_\_\_\_\_

**DEADLINE: This form MUST be returned by fax or email or mail postmarked no later than June 2, 2009, to:**

Leonard Carder, LLP  
Attn: UPS Supply Chain Solutions Lawsuit  
1330 Broadway, Suite 1450  
Oakland, CA 94612  
Fax: (510) 272-0174  
Email: [dnorman@leonardcarder.com](mailto:dnorman@leonardcarder.com)

**PROOF OF SERVICE**

I am a citizen of the United States and am employed in Alameda County. I am over the age of eighteen (18) years and not a party to the within action. My business address is 1330 Broadway, Suite 1450, Oakland, CA 94612. On March 27, 2009, I served the following document(s):

**STIPULATION AND ORDER [Proposed] REGARDING  
PLAINTIFFS' NOTICE AND OPT-IN FORM**

I electronically filed the foregoing document(s) with the Clerk of Court using the CM/ECF system which automatically sent notification of such filings to the following:

Robert P. Kristoff	<u><a href="mailto:bobkristoff@paulhastings.com">bobkristoff@paulhastings.com</a></u> , <u><a href="mailto:crystalking@paulhastings.com">crystalking@paulhastings.com</a></u> , <u><a href="mailto:helendevol@paulhastings.com">helendevol@paulhastings.com</a></u>
Michael M. Pfyl	<u><a href="mailto:michaelpfyl@paulhastings.com">michaelpfyl@paulhastings.com</a></u> , <u><a href="mailto:alicebrown@paulhastings.com">alicebrown@paulhastings.com</a></u>
Zachary P. Hutton	<u><a href="mailto:zacharyhutton@paulhastings.com">zacharyhutton@paulhastings.com</a></u> , <u><a href="mailto:jeffsmith@paulhastings.com">jeffsmith@paulhastings.com</a></u>

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Oakland, California on March 27, 2009.

/s/ Lorelei Badar  
Lorelei Badar